

IN THE FAMILY COURT OF THE STATE OF DELAWARE

ORDER CREATING RULE 302

OF THE FAMILY COURT RULES OF CIVIL PROCEDURE

THIS 12th day of February, 2007, IT IS ORDERED
THAT:

The Family Court Rules of Civil Procedure shall be amended as follows:

1. Add a new Rule 302 to read as follows:

Rule 302. Income attachment; Operation of law adjustment; Change of payee.

- (a) Child Support payments shall be payable to the Division of Child Support Enforcement (DCSE) unless an alternative payment arrangement is Ordered by the Court for good cause shown. DCSE is authorized to issue income attachments for any obligation payable to the agency unless specifically stayed by the Court. Income attachment will not be available to enforce a child support obligation unless it is payable through DCSE. A spousal support or alimony obligation may be ordered payable through DCSE but only if there is a concurrent child support obligation.
- (b) All Family Court child support orders are subject to the operation of law provisions of sections 516(f) and 517 of Title 13 of the Delaware Code. Whenever DCSE has cause to believe that a current or past due support obligation has terminated or been modified by operation of law, the Court recognizes the authority of DCSE to adjust its accounts and terminate or modify any outstanding income attachment without further Order of the Court. Operation of law adjustments shall include:
 - (1) Whenever a past due balance arises and persists for more than 90 days, the periodic payment may be supplemented by an amount

equal to 10% of current support (rounded to the nearest dollar) unless there is already a past due balance payment ordered until the past due balance is paid in full.

- (2) Whenever past due support has been paid in full and current support continues the periodic payment shall decrease to the amount of current support only.
 - (3) Upon the termination of a current support obligation pursuant to section 517(a) of Title 13, the total amount previously ordered shall presumptively continue until any past due balance is paid in full.
 - (4) When current support has terminated and all past due balances have been paid in full, all enforcement shall cease.
 - (5) When custody of all children who are the subject of a child support order is transferred by Court Order or written agreement to the obligated parent, current support shall terminate. If a past due support balance remains, any previously ordered past due support payment remains in effect or if there is none, 10% of the terminated current support payment will be the periodic payment. This paragraph shall not apply to interim orders incident to pending custody actions except as the Court may by order direct.
- (c) The child is the real party in interest in any child support action. Whenever placement of a child changes to a person or government agency other than the current support recipient and that person or agency has either requested child support collection services or assigned rights of support to the State pursuant to 31 Del. C. §504(a), DCSE may administratively re-direct payments to that person to the extent allowed by applicable federal regulations. A determination that a change of placement has occurred must be supported by a Court order, written agreement signed by the obligated parent or a successful

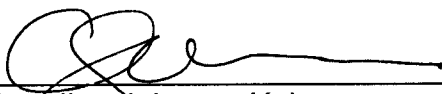
application for government sponsored cash or medical benefits on behalf of the child. Obligations regarding more than one child in more than one home may be subdivided per capita.

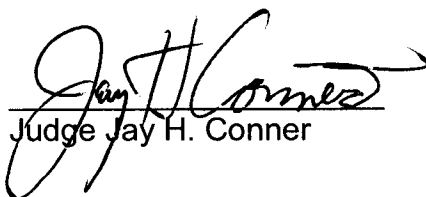
(d) Within 120 days prior to or 30 days after adjusting its accounts as described in subsection (b) or (c), DCSE shall file with the Court a Notice of Administrative Adjustment indicating the action taken. The Notice shall be mailed to all parties at their last known address and advise that a Motion to Contest an Administrative Adjustment may be filed with the Court within 30 days of the mailing date of the Notice. Absent a contest, the contents of the notice shall be presumptive in any subsequent proceeding.

(e) Recognition of the termination or modification of a current or past due support obligation by operation of law or a change of payee may also be sought by motion by any party other than DCSE, or by DCSE if relief other than that which is authorized by subparagraphs (b) or (c) is sought. Nothing in this rule shall limit the Court's ability to grant appropriate relief in an action to establish, modify or enforce a support obligation.

2. This amendment shall be effective 30 days after notice to members of the Bar.

BY THE COURT:


Chandlee Johnson Kuhn
Chief Judge


Judge Jay H. Conner

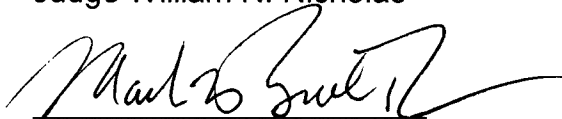

Judge Kenneth M. Millman



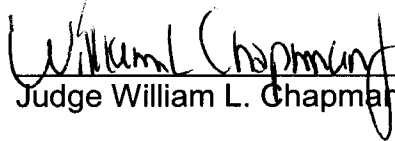
Judge William N. Nicholas



Judge William J. Walls, Jr.



Judge Mark D. Buckworth



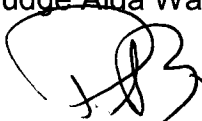
Judge William L. Chapman, Jr.



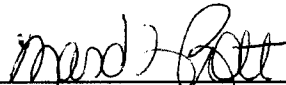
Judge Aida Waserstein



Judge Barbara D. Crowell



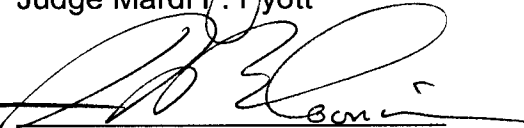
Judge Peter B. Jones



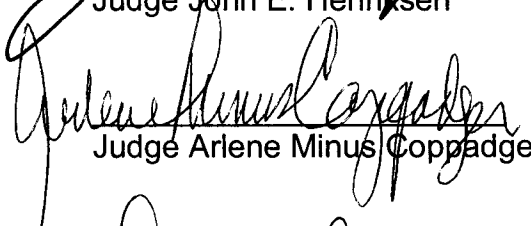
Judge Mardi F. Pyott



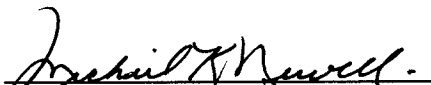
Judge John E. Henriksen



Judge Robert B. Coonin



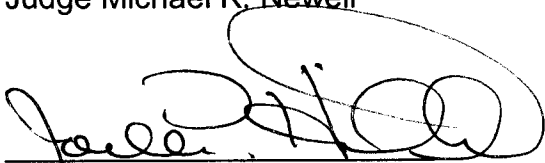
Judge Arlene Minus Coppadge



Judge Michael K. Newell



Judge Alan N. Cooper



Judge Joelle P. Hitch

